

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                    |   |                                  |
|--------------------|---|----------------------------------|
| NATHAN T. MORRIS,  | § |                                  |
|                    | § | No. 398, 2005                    |
| Defendant Below,   | § |                                  |
| Appellant,         | § | Court Below--Superior Court      |
|                    | § | of the State of Delaware, in and |
| v.                 | § | for Kent County in VK01-11-      |
|                    | § | 0258-01.                         |
| STATE OF DELAWARE, | § |                                  |
|                    | § |                                  |
| Plaintiff Below,   | § |                                  |
| Appellee.          | § | Cr. ID No. 0101005624            |

Submitted: January 12, 2006

Decided: March 28, 2006

Before **HOLLAND, JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 28<sup>th</sup> day of March 2006, upon consideration of the appellant's brief filed pursuant to Supreme Court Rule 26(c), his attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) In February 2002, Nathan T. Morris pleaded guilty to Burglary in the Second Degree and Assault in the Third Degree. The Superior Court sentenced Morris to nine years at Level V suspended after four years followed by two years at Level III and three years at Level II.

(2) On July 29, 2005, the Superior Court found Morris guilty of violation of probation and sentenced him on the burglary conviction to four

years at Level V suspended after one year for one year at Level III and one year at Level II. On the assault conviction, the Superior Court discharged Morris as unimproved. This appeal followed.

(3) On appeal, Morris' counsel has filed a brief and a motion to withdraw pursuant to Rule 26(c). The standard and scope of review applicable to the consideration of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold. First, the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for claims that could arguably support the appeal.<sup>1</sup> Second the Court must conduct its own review of the record and determine whether the appeal is so devoid of at least arguably appealable issues that it can be decided without an adversary presentation.<sup>2</sup>

(4) Morris' counsel asserts that, based upon a careful and complete examination of the record, there are no arguably appealable issues. Counsel informed Morris in writing of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw and the accompanying brief. Counsel also informed Morris of his right to supplement her presentation.

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<sup>1</sup>*Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

<sup>2</sup>*Id.*

(5) Morris did not submit any points for this Court to consider. The State has responded to the position taken by Morris' counsel and has moved to affirm the Superior Court's judgment.

(6) The Court has reviewed the record carefully and has concluded that Morris' appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Morris' counsel made a conscientious effort to examine the record and the law, and that she properly determined that Morris could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Jack B. Jacobs  
Justice